

## Popular Talks on Law.

### CRUELTY TO ANIMALS

By Walter K. Towers, A. B., J. D., of the Michigan Bar.

Can one be cruel to an anglerworm? Can one be cruel to an oyster? These queries are not part of any foolish question series, but are examples of the inquiries upon which courts of law have engaged themselves in their efforts to prevent unnecessary suffering to animals. As the judge leaves the decision of these questions to the jury, one average citizen is as competent to answer them as another. It all depends upon what happened to the worm or the oyster, whether it hurt the victim, why it was done, the viewpoint of the person making the decision, and a few simple rules of law.

A recent case of similar nature has attracted public attention and drawn forth an interesting opinion from the judge. The case arose in New York and involved the question as to whether cruelty to turtles is cruelty to animals, and further, whether you can be cruel to a turtle. Sixty-five green turtles were shipped from Cuba on a steamship with their flippers perforated and tied together by means of ropes passing through the holes. The turtles were placed on their backs and so allowed to remain until the ship reached New York City. The captain of the steamship was prosecuted under the penal law of New York, the charge being that he had caused these turtles unnecessary and unjustifiable pain and suffering while in transit.

The first objection made was that a turtle is not an animal and so the act was not covered by the statute. The statute of New York defines an animal as not including the human race, but every other living creature. Notwithstanding that a turtle is a species of reptile, the court held that a turtle is included in the definition.

It was next considered as to whether unjustifiable pain was inflicted. On this point the court commented as follows:

"Hogs have the nose perforated and a ring placed in it; ears of calves are similarly treated; chickens are crowded into freight cars; codfish is taken out of the waters and thrown into barrels of ice and sold on the market as 'live cod'; eels have been known to squirm in the frying pan; and snails, lobsters and crabs are thrown into boiling water. Irrespective of the devious means that might be adopted to destroy life before these cruelties are perpetrated upon them, still no one has raised a voice in protest. \* \* \* The Emperor Augustus nearly exterminated peacocks to regale himself in Rome with their brains. Today the world would hold their death unjustifiable. Then again juries and magistrates of different localities, race, or education, with varying ideas of taste and cuisine, may hold widely divergent ideas as to whether the improved flavor of lobsters boiled alive makes such torture 'justifiable.'"

The court left the matter to the jury. How would you decide the case?

The protection afforded dumb animals against needless cruelty rests upon particular statutes as enacted by the legislatures of the various states, and not upon any general principle of English law, unless the act be done in public and so amount to a nuisance. Thus, just what may be punished as cruelty to animals in a particular state depends upon the wording of the laws of that state. Criminal statutes against cruelty to animals are virtually universal. These laws are generally of similar nature and usual-

ly apply to all animals other than humans, as does the New York statute. The law does not, of course, prohibit all acts that cause animals pain or suffering, but only such as are unjustifiable and not necessary to the accomplishment of some lawful purpose. The butcher may kill the steer he has bought, and is not legally guilty of cruelty since his act is in the accomplishment of a lawful purpose. But if he slaughters the steer in a needlessly cruel manner he becomes guilty of cruelty to animals. Thus a butcher who dismembered hogs and plunged them into boiling water before they were dead, in the process of slaughtering and dressing them, was punished for cruelty to animals. Further, a needless, wanton killing, even though unaccompanied by any torture, has been punished as "cruelty," and that though the animal was a chicken.

Cock-fighting is quite generally held to be cruelty to animals within the terms of the ordinary statute. Releasing a captive fox and permitting it to be hunted by dogs, who tear and mangle it, has been punished as a criminal act. Shooting captive pigeons for sport or to improve marksmanship, has been held to constitute legal cruelty by some courts; but others have held that where the wounded birds were at once killed and with those shot dead used for food, the killing was justifiable. We need not remark that the familiar case of the old lady who protested against the shooting of clay pigeons as being cruelty to animals failed.

Overdriving or overloading horses and work-animals are familiar forms of cruelty and are frequently punished. Driving animals which are unfit to work is also cruelty. The cruelty may consist as a passive act of neglect as well as an active abuse or mistreatment. The man who left his horse hitched to the buggy, standing in the woods for over twenty-four hours, without food or water, was held guilty of cruelty. Transportation of animals for like periods of time without food, water or exercise, has also been held cruelty.

Some juries have ruled that dehorning cattle was cruelty, because unnecessary and unreasonable; but generally a different view is taken, and if the act is customary in the community, skillfully performed and for proper purposes, no legal liability attaches. Working a dog in a treadmill is not in itself cruelty; but harsh and unreasonable treatment of a dog in a treadmill was held criminal.

Unnecessary and unreasonable beating is a commonly punished form of cruelty to animals. Poisoning is also cruelty where there is no justification for the action. Hacking a pig with an axe and permitting it to lie wounded without attention, pouring turpentine on a chicken and setting fire to it, and keeping a horse with a badly diseased leg in a pasture in which it was inevitably put to great pain, have caused criminal convictions.

That unjustifiable killing is cruelty has been stated. One man killed chickens which had invaded his garden to eat his peas, and for doing so was subject to prosecution for cruelty to animals. The court stated that his proper remedy to protect his garden was to impound the chickens until their owner made good the loss, or to sue for damages.

The owner of an animal, if cruel to it, is as liable as others under most

of the statutes. One who advises the doing of a cruel act may be convicted as an aider and abettor. A man who incited a dog to attack and tear a cow was held guilty.

Prosecutions for cruelty to animals, being criminal, are generally instituted and conducted by the public prosecutor. Any person, noticing an act of cruelty that should be redressed, may bring the matter to his attention. —Copyright, 1913, by Walter K. Towers.)

#### SOCIETY.

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arranged party at the home of the president, Miss Mary Owen on G street, which was attended by a great company of friends who were interested in the altar fund.

A great many friends enjoyed the tea given at the Jackson C. McChrystal home on Thursday, at which Mrs. Philip Clark was also a hostess. A great many of the intimate friends of the two hostesses assisted them and made a great success of the affair.

Mrs. M. L. Prince, a talented singer from Los Angeles, is being entertained a great deal during a visit to the city, having been the guest of honor at social affairs every day during the past week.

Mrs. S. D. Evans has gone to the northwest to spend the better part of the summer with Mr. and Mrs. Paul Nelden, whose home is near Hood River, Ore. Mrs. Nelden was Miss Evans.

Mrs. J. W. Houston and her daughter, Miss Bryan Houston, are at the



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Hotel Utah for a stay of some time, having arrived from Houston, Texas, early in the week.

Mr. and Mrs. Henry M. Crowther are to leave the city within a few days to take up their residence in Los Angeles where Mr. Crowther goes into business.

Mr. and Mrs. J. L. Priest of Boise have been spending a part of the past week in the city visiting their former friends. They are on their way to Los Angeles to visit relatives.

A breath of Havana in every La Tasador smoke. Learn to ask for it. (Adv.)

—THE—

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